

Remarks

The Examiner has indicated that claims 8 and 11 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and the provisional rejection of obviousness-type double patenting is overcome. The Examiner's advice is gratefully acknowledged and the following amendments are made in view of this advice.

Independent claim 1 has been amended to include the recrystallization step of claim 8. Claim 8 has been cancelled as redundant. Claims 2-7 and 9 are dependent on amended claim 1.

Similarly, independent claim 10 has been amended to include the recrystallization step of claim 11. Claim 11 has been cancelled as redundant. Claim 12 is dependent on amended claim 10.

Claims 1 and 10 have also been amended to delete the recitation "comprising equiaxed grains." This limitation is not necessary for the practice of the invention and goes beyond the disclosure of the specification, for example, paragraph [0010].

Claims 1-7, 9, 10, and 12 were rejected under 35 U.S.C. 103(a) as being unpatentable over Zonker (US 6,280,543). It is understood that this rejection does not apply to the claims as amended.

Claims 1-7, 9, 10, and 12 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of co-pending application SN 10/273,432, now U.S. Patent 6,811,625. The co-pending application is the parent application to this case and is assigned to the assignee of this invention. The Examiner is urged to reconsider this provisional rejection for the following reasons.

The judicial doctrine of obviousness-type double patenting is applicable to prevent the issuance of claims in a second patent that are not patentably distinct from the claims in a commonly owned first patent. The test of patentability here is whether claims 1-7, 9, 10, and 12 are obvious considering the claims (and only the claims) of the Verma '625 Patent issuing on the parent application to this case.

Claims 1-7, 9, 10, and 12 are directed to methods of making a copper-containing aluminum alloy for sheet metal forming. The claimed methods comprise steps of continuous casting, hot rolling, annealing, cold rolling and recrystallizing to obtain a metallurgical microstructure suitable for subsequent forming of the copper-containing aluminum alloy sheet metal.

The '625 patent claims recite similar steps for making a formable aluminum alloy sheet. But the patent claims do not mention an alloy that includes copper. The subject application describes the challenge of making formable copper-containing aluminum alloys by a continuous casting process and claims 1-7, 9, 10 and 12 recite the process. The patent claims do not teach how to make formable copper-containing aluminum sheet metal alloys.

It is respectfully submitted that claims 1-7, 9, 10, and 12 are patentable over prior art such as the Zonker et al patent and that the claims are patentably distinct from the claims of the '625 patent. Accordingly it is urged that claims 1-7, 9, 10, and 12 be allowed and the case passed to issue.

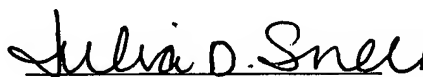
Respectfully Submitted,



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